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April 9, 2003

Country of Origin Labeling Program  
Agriculture Marketing Service, USDA  
Stop 0249, Room 2092-S  
1400 Independence Ave. SW  
Washington DC 20250-0249

RE: Docket Number LS-02-13 (Country of Origin Labeling Comment)

Dear Sir or Madam:

This letter comes as a submission of public comment for the establishment of guidelines for the interim voluntary country of origin labeling for products such as beef, lamb, pork, fish, perishable agricultural commodities, and peanuts as authorized by the 2002 Farm bill (P.L. 107-171). As you know, the Farm Security and Rural Investment Act of 2002 amended the Agriculture Marketing Act of 1946 to require USDA and the Agriculture Marketing Service (AMS) to issue country of origin labeling guidelines for voluntary uses by retailers. This law also requires AMS to develop a mandatory country of origin labeling program by September 30, 2004.

This comment addresses the issue of peanuts specifically and whether the guidelines issued by USDA correctly interpreted the intent of Congress by excluding peanut butter as an ingredient in a processed food item. For example, the notice by USDA in the Federal Register (Vol. 67, No. 198, 10/11/02, 63368) points out that P.L. 107-171 does not define a "processed food item" and therefore USDA must define what constitutes a "processed food item" for each covered commodity. USDA also notes that in determining when an ingredient in a processed food item is excluded from these guidelines, the agency used two methods.

First, the agency defined a processed food item as a combination of ingredients that result in a "product with an identity that is different from that of the covered commodity." Second, a commodity that is "materially changed" to the point that its character is substantially different from that of the covered commodity is also deemed to be a

processed food item. The agency cites salmon when combined with other ingredients to produce sushi and peanut when combined with other ingredients to produce a candy bar.

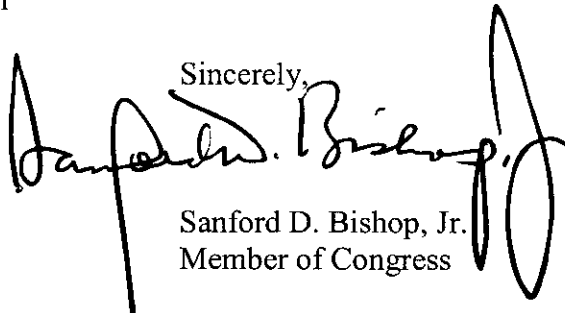
Although the agency recognizes that peanuts that are sold at retail and are shelled, roasted, and salted are covered commodities, they exclude peanut butter and peanut products. While it is true that peanut paste may be used as an ingredient in candy, we believe this is overreaching by the agency in determining that peanut butter is also excluded.

For example, the Food and Drug Administration requires that peanut butter contain at least ninety percent peanuts. Peanut butter is ground and cooked, and sugar and oil are usually the only ingredients added. Peanut butter is not a product that is substantially different from the covered commodity and as such should not be excluded.

Further, since peanut butter is often blended with peanuts of other origins, the consumer would have a legitimate interest in knowing the country of origin and the specific amount contained in the peanut butter. This would be consistent with the intent of the country of origin labeling provision that is designed to ensure a well-informed consumer.

We ask that the regulations include peanut butter as part of the covered commodity. Thank you for your consideration in this matter. If I may be of any additional assistance, please contact my office.

With warmest regards, I remain

Sincerely,  
  
Sanford D. Bishop, Jr.  
Member of Congress